

8800 Technology Forest Place
The Woodlands, TX 77381
Phone: 281-863-3399
Fax: 281-863-3335

RECEIVED
CENTRAL FAX CENTER

AUG 10 2005

**Lexicon Genetics
Incorporated**

Fax

To: United States Patent and Trademark Office **From:** David W. Hibler
Reg. No. 41,071
Agent for Appellants

Fax: 571-273-8300

Date: August 10, 2005

Phone:

Pages: 4 (including coversheet)

Re: Appeal No. 2004-2382
Application Serial Number: 09/899,513
Atty. Dkt. No. LEX-0200-USA

CC: File

•Comments:

Pursuant to a request from Examiner Li on August 4, 2005, attached please find a copy of the Response to the Order Under 37 C.F.R. § 41.50(d), and Withdrawal of Appeal No. 2004-2382, which was originally filed *via* facsimile with the Board of Patent Appeals and Interferences on December 30, 2004, along with the transmission verification document. Please enter this document into the record of the above-referenced case.

Please contact me at (281) 863-3399 if there are any questions regarding this matter.

Sincerely,



David W. Hibler
Reg. No. 41,071

AUG-10-2005 13:36

LEXICON GENETICS INC

281 863 8092

P.02

***** -COMM. - NAL- ***** DATE DEC-30-2004

TIME 11:32 *****

MODE = MEMORY TRANSMISSION

START=DEC-30 11:31

END=DEC-30 11:32

FILE NO.=409

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	8	915712730300	003/003	00:00:25

-LEXICON GENETICS INC -

***** -281 863 8092 - ***** 281 863 8092- *****

8800 Technology Forest Place
The Woodlands, TX 77381
Phone: 281-863-8092
Fax: 281-863-8338

**Lexicon Genetics
Incorporated**

Fax

To: Dianne Maggard
Board of Patent Appeals and Interferences

From: David W. Hilder *DWH*
Reg. No. 41,071
Agent for Appellants

Fax: 571-273-0300

Date: December 30, 2004

Phone:

Pages: 3 (including coversheet)

Re: Appeal No. 2004-2382
Application Serial Number: 09/899,513
Atty. Dkt. No. LEX-0200-USA

CC: File

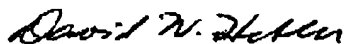
***Comments:**

Please find attached a Response to the Order Under 37 C.F.R. § 41.50(d), and Withdrawal of Appeal No. 2004-2382. Please contact me at the number shown above if there are any questions.

AUG 10 2005

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being filed with Dianne Maggard of the United States Patent and Trademark Office by facsimile transmission on December 30, 2004 to facsimile telephone number (571) 273-0300.



David W. Hibler

41,071

(Reg. No.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant(s): Scoville and Walke (As Previously Amended)	Group Art Unit: 1646
Application No.: 09/899,513	Appeal No.: 2004-2382
Filed: 07/05/2001	Examiner: R. Li
Title: Novel Human Membrane Proteins and Polynucleotides Encoding the Same	Atty. Docket No.: LEX-0200-USA

**RESPONSE TO ORDER UNDER 37 C.F.R. § 41.50(d) DATED DECEMBER 1, 2004:
AND WITHDRAWAL OF APPEAL**

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellants acknowledge the receipt of the Order Under 37 C.F.R. § 41.50(d) ("the Order") mailed on December 1, 2004, which has been carefully reviewed and studied. While Appellants do not agree with the rejections set forth by the Examiner in the present case, and do not agree with the Board that "(t)he Appeal Brief in this appeal includes essentially the same arguments that were made and rejected by the previous merits panel in Appeal No. 2004-0343" (the Order at page 4), Appellants hereby withdraw the present appeal (Appeal No. 2004-2382) without prejudice and without disclaimer in order to pursue claims in a continuing application, which was filed on December 29, 2004.

A one month non-extendable time limit for response is set forth in the Order. The response is therefore timely filed, and Appellants believe no fees are due in connection with this response. However, the Commissioner is authorized to charge any required fees or credit any overpayment to Deposit Account No. 50-0892.

Respectfully submitted,

December 30, 2004

Date

David W. Hibler

David W. Hibler

Reg. No. 41,071

Agent for Appellants

LEXICON GENETICS INCORPORATED

8800 Technology Forest Place

The Woodlands, TX 77381

(281) 863-3399

Customer # 24231